

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SCOTT ECK and PAT ECK

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgement

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C SECTION 1692

Brief description of cause:
Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation: _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/18/2013

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

SCOTT ECK and PAT ECK	:	
	:	
v.	:	CIVIL ACTION
	:	
NCO FINANCIAL SYSTEMS, INC.	:	NO.
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

04/18/2013
Date

Craig Thor Kimmel
Attorney-at-law

Plaintiff, Scott & Pat Eck
Attorney for

215-540-8888
Telephone

877-788-2864
FAX Number

kimmel@creditlaw.com
E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 4121 Lehigh St., Whitehall, PA 18052

Address of Defendant: 507 Prudential Rd., Horsham, PA 19044

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 04/18/2013

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/18/2013

Attorney-at-Law

57100

Attorney I.D.#

SCOTT ECK and PAT ECK,)	
)	
Plaintiffs)	
)	
v.)	Case No.:
)	
NCO FINANCIAL SYSTEMS, INC.,)	COMPLAINT AND DEMAND FOR
)	JURY TRIAL
Defendant)	
)	(Unlawful Debt Collection Practices)

SCOTT ECK and PAT ECK (“Plaintiffs”), by and through their attorneys,
KIMMEL & SILVERMAN, P.C., allege the following against NCO Financial
Systems, Inc. (“Defendant”):

1. Plaintiffs' Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA")

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

5	PARTIES
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5. Plaintiffs are natural persons residing in Whitehall, Pennsylvania 18052, at the time of the alleged harassment.

7. In the alternative, Plaintiffs are persons granted a cause of action under the FDCPA. See 15 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiffs in an attempt to collect a debt.

24 **FACTUAL ALLEGATIONS**

1 14. At all relevant times, Defendant was attempting to collect an alleged
2 consumer debt and repeatedly contacted Plaintiffs in its attempts to collect that
3 debt.
4

5 15. Upon information and belief, the alleged debt at issue arose out of
6 transactions, which were primarily for personal, family, or household purposes.
7

8 16. Plaintiffs never incurred any debt in connection with a business or
9 commercial activities, and therefore, the debt, if truly an obligation owed by them
10 could have only arisen from a financial obligation for primarily personal, family or
11 household purposes.
12

13 17. In November 2012, Plaintiffs moved into a new home, and about one
14 week later, they had a new home telephone number turned on.

15 18. Almost immediately, Plaintiffs began receiving repeated and
16 continuous collection calls from Defendant. The calls continued through April
17 2013.
18

19 19. During the relevant period, Defendant called Plaintiffs, on average,
20 one (1) and four (4) times per day.

21 20. In those instances where Plaintiffs' answered Defendant's calls, they
22 received a pre-recorded message advising that it was calling to collect a debt and it
23 was regarding a personal business matter.
24
25

1 21. At no time in the message did Defendant identify the name of the
2 alleged debtor or give Plaintiffs the option of speaking with a live person.

3
4 22. In those instances where Plaintiffs' voicemail picked up, Defendant
5 left messages stating, "NCO Financial Systems, Inc." was "attempting to collect a
6 debt" and instructing Plaintiffs to call "Duane Wilkinson back at (866) 285-0367."
7 Defendant provided a reference number of "OMN133."

8
9 23. In its voicemail messages, Defendant never identified the name of the
10 alleged debtor.

11 24. Wanting to stop the repetitive and continuous calls, Plaintiffs
12 contacted Defendant and was advised that it would remove their number so that
13 Plaintiffs would not receive any more calls.

14
15 25. However, Defendant failed to update its records and remove
16 Plaintiffs' phone number from its database.

17
18 26. Instead, Defendant continued to call Plaintiffs in its attempts to collect
19 a debt.

20 27. On several other occasions, Plaintiffs contacted Defendant and
21 advised Defendant to stop calling. Each time, Defendant's collectors assured
22 Plaintiff that it would remove their phone number from its records and that it
23 would stop calling.
24
25

1 28. But, Defendant would not remove Plaintiffs' phone number from its
2 system, and instead persisted in calling Plaintiffs, having the intent to annoy,
3 abuse, and harass them.
4

5 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION**
6 **PRACTICES ACT**

7 29. In its actions to collect a disputed debt, Defendant violated the
8 FDCPA in one or more of the following ways:

9 **COUNT I**

- 10 a. A debt collector violates §1692d of the FDCPA by engaging in
11 conduct the natural consequence of which is to harass, oppress, or
12 abuse any person in connection with the collection of a debt.
13
14 b. A debt collector violates §1692d(5) of the FDCPA by causing a
15 telephone to ring or engaging any person in telephone
16 conversation repeatedly or continuously with intent to annoy,
17 abuse, or harass any person at the called number.
18
19 c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA by
20 repeatedly contacting Plaintiffs one (1) to four (4) times a day,
21 even after Plaintiffs requested that the calls be stopped, with the
22 intent to annoy, abuse or harass Plaintiffs.
23
24

25 **COUNT II**

- a. A debt collector violates §1692e of the FDCPA by using any false,

1 deceptive, or misleading representation or means in connection
2 with the collection of any debt.

- 3
4 b. Here, Defendant violated §1692e of the FDCPA when it told
5 Plaintiffs that it would remove their telephone number from its
6 system but never intended to do so, as evidenced by their
7 continued calls to Plaintiffs.

8
9 **COUNT III**

- 10 a. A debt collector violates §1692f of the FDCPA by using any false,
11 deceptive, or misleading representation or means in connection
12 with the collection of any debt.
13
14 b. Here, Defendant violated §1692f of the FDCPA engaging in other
15 unfair and unconscionable debt collection practices, including
16 failing to update its records to avoid further calls to Plaintiffs.

17
18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs, SCOTT ECK and PAT ECK, respectfully pray
20 for a judgment as follows:

- 21 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
22
23 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
24 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
25

- 1 c. All reasonable attorneys' fees, witness fees, court costs and other
2 litigation costs incurred by Plaintiffs pursuant to 15 U.S.C. §
3 1693k(a)(3); and
4
5 d. Any other relief deemed appropriate by this Honorable Court.

6 **DEMAND FOR JURY TRIAL**

7 PLEASE TAKE NOTICE that Plaintiffs, SCOTT ECK and PAT ECK,
8 demand a jury trial in this case.
9

10 RESPECTFULLY SUBMITTED,

11 DATED: 04/18/13

KIMMEL & SILVERMAN, P.C.

12 By: _____

13 CRAIG THOR KIMMEL

14 Attorney ID # 57100

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